

1893-035 Chancery Causes: J. R. 1/2 Dowell, trst. vs. G. B. Burchett & Lee Co.

Ayers

CA-Debt
T-Property

-Deed

To The Hon H. S. K. Morrison Judge
of the Circuit Court of Lee County
Virginia. Your orator J. R. McDowell
Trustee, who humbly complaining
would respectfully represent that
heretofore on the 22^d day of July 1889
G. B. Burchett and John Byers ex-
ecuted to "Frick Company" an
Incorporation under & by virtue of
the laws of the State of Pennsyl-
vania, doing business in the State
of Virginia, two negotiable notes
for forty four dollars each dated
July 22^d 1889, one made payable
on the 22 day of Jan 1890 and the
other the 22 day of July 1890, in
each of which the parties waived
the benefit of their Homestead exemption
and agreed to pay 10 percent as attorney fees ^{thereon} ~~therein~~
and the formality of protest, neither
one of these notes nor no part
thereof has ever been paid, but
are now wholly due the said Frick
Company, and are each herewith
filed as part hereof. They are the
part purchase price of one
Frick Company & Horse Power, no
Triple Gear Complete with its sweeps
Lumbering rods, 13 brace rods and all

fixtures with or belonging to the same
also one truck wagon under the
same. And on the same day the
said G. B. Burchett executed a
deed of trust on said engine & truck
wagon, and several horses & mules
and two tracts of land lying and being
in Claiborne County Tenn. also one
tract of land containing 145 acres lying
and being in the Rose Hill District Lee
County Va belonging to the said G. B.
Burchett adjoining the lands of the
Ely heirs on the north, D. C. Willis on
the south, Wm Boles on the east and
the Litalab heirs on the west, to secure
these two notes, to secure these two
notes, and two others. one falling
due Oct 22 1890 for a like sum of
\$44⁰⁰ and otherwise like the two first
the other for \$43⁰⁰ falling due Jan 22
1891. all bearing interest at the rate
of 6% per annum - all waiving the
~~and agreeing to pay 10% per cent per year~~
Home stead and protest. These last
two are likewise unpaid and
will in due time be filed here-
with as part hereof. These last
are also executed to the Fitch Corpora-
tion. This deed of trust has been

duly recorded in the County Court
clerk's office of this County and Con-
stitutes as your orator is advised a
lien upon all the real and person-
al estate therein belonging to the said
G. B. Burchett, situated in Lee County
Virginia - and properly described in
said deed of trust which is also
herewith filed marked "B" and is
prayed to be considered herewith.

The said Ayers is only the security
of the said Burchett and your orator is
informed the said Burchett's property
embraced in said trust will pay
and discharge the same, and that if
it will so do a Court of equity
will first hold him liable who
is the principal

The object of this bill therefore
is to enforce said trust, and com-
pel a sale of said property and
if found necessary, sell and rent said
real estate to pay the same. The said
deed of trust creating a lien is as
your orator is advised enforceable only
in equity where trust are admin-
istered and enforced. Should said prop-
erty pay and discharge said debts

then no relief is sought against
said Ayer but should that fail then
your orator prays for a decree over
against him for the two notes signed
by him.

The prayer of your orator therefore
is that G. B. Burchett and John Ayer
be made parties defendants to this
bill and answer its allegations ~~exp-~~
but they need not do so upon oath
that being expressly waived. And on
a hearing said trust be enforced
and said lien herein asserted be
carried out. That said Engine &
wagon be sold and as much of
said land and other property as
may be necessary to pay the same
and should said property prove
unavailing then that a personal
decree be rendered against the de-
fendants for the amount thereof.
And for all other further and
general relief may your orator

A. L. O'Brien

P. G.

Pay 1.50

to 8.83

\$ 1.00

16.00

\$ 26.33
Estimate 4 59 to clerk

\$ 30.92

Com 2.50

\$ 33.42

38.30

33.42

\$ 4.88 Bal.

14 92

11.96

2.96

P

J. R. McDowell

v} Bill Chy

G. B. Burchett et al

1891, 2nd Febry Rules Bill
filed Spa Exd & D. Nisi

" 1st Mr. Rules D. N. Conf

" 2nd Mr. Rules Cause

set for hearing by J. J.

" March Term Court

" Aug Term Court

" Decr Court

1892. Court

1893 March Term
final

J. R. McDowell Trustee

vs.

G. B. Burchett et al

} In Chancery

This cause came on again to be heard upon the papers formerly read therein and the report of sale of such of the property in said deed ^{as was located in this State} of trust, by James A. Vandewater & filed in this cause on the 23 day of Febr. 1892 and it appearing that said report is correct & complete, it is therefore adjudged, ordered and decreed that said report & sale be and is hereby confirmed, And it appearing that the money on said sale has been paid ~~it is~~ & there being nothing further to be done in said cause the ^{said cause} ~~same~~ is ordered to be stricken from the docket.

J. R. M. Bowell

is } secret final

G. B. Buckle & Co

Entered Chas O B
page 440. March
8th 1893. Hyatt C

Enter This
March 8 1893.

H. L. K. V. C.

J. R. McDowell Trustee
against
G. B. Burchett et al. } In Chy

This
Cause came on this day
to be heard upon the bill
of the plff taken for con-
fession and exhibits filed and
was argued by Counsel. On
consideration whereof and
for reasons appearing to the
Court, it is adjudged ordered
and decreed that the plff J. R.
McDowell trustee for the Frick
Estate from G. B. Burdett and John F. Foy
Company a body corporate the
sum of \$88.00 and legal interest
on \$44.00 part thereof from
the 22^d day Jan. 1890 till paid
and the like interest on \$44.00 the
residue thereof from July 22
1890 till paid; and the costs of
this suit. And it appearing
that, two notes are a lien upon
one Frick Company & horse power
thrashing machine tripple gear
complete with lumbering rods &c
also one Gray horse about 6 years
old, one bay mare about 9 years old

one bay mare about 4 years old
named Beck - also an tract of
145 acres of land situated in
Lee County Virginia the property of
G. B. Burchett and Eliza Burchett
and it being adjudged by the
plff by decree that it is
inconvenient for him to
execute said trust, D. C. Sawell
who is hereby appointed a
special commissioner, for
the purpose, will proceed
to, execute said trust by selling
so much of said property
for ready cash as will
pay the same, he will sell
first such property as
the said Burchett may di-
rect - But before proceeding
to execute this decree he
will execute bonds before
the Clerk of this Court
in a penalty of \$200⁰⁰
with approved security, con-
ditioned to duly perform
the duties hereunder.
He will then make sale

of said property on some
Court day at the front
door of the Court House of
this Court by public sale
cry to the highest bidder
for ready cash.

He will repeat his action
to this Court at its next
term - The Cause is Con-
tinued.

J. R. McDowell
Trust

W. J. Secord
for sale
G. B. Burdett
Aug. 7. 1891

Entered Chex O. B.
p. 356
Sept 4, 1891,
J. A. H. Hyatt

Entered Trust
Sept 4. 1891
H. S. K. M.

J. R. McDowell, Trustee

vs.

G. B. Burchett & al.

In Chancery.

To the Hon. H. S. K. Morison,
Judge of the Circuit Court
for Lee County, Virginia.

The undersigned respectfully represents unto your honor, that on the 4th day of Sept., 1891, your honor appointed D. C. Sewell a special commissioner for the purpose of selling the property set-out in the deed of trust included in the above styled cause, and in the manner therein set forth. And it appearing to said D. C. Sewell, Special Comr., on investigation, that none of the property covered by said deed of trust was in existence, or within the jurisdiction of this court, except an old and worn threshing machine, and that said threshing machine was some 25 or 30 miles away from the court-house and would not sell at public auction for much more than enough to pay for the transportation thereof to the court-house, the

place designated for the sale thereof; and it being inconvenient for said D. C. Sewell to execute your honor's said decree, he directed the undersigned to take said property into possession and to dispose of same to the best advantage.

The undersigned, therefore, in pursuance of the premises, reports that on the 27th day of Nov., 1891, he took into his possession the threshing machine described in said deed of trust, and after advertising the same at different places, he, on the 20th day of Feb., 1892, sold the same at public outcry, to the highest bidder, for cash in hand, and realized therefor \$40.70, which sum, less \$2.50, he paid to Mess. Permington & Goring, Attys. in said cause.

All which is respectfully submitted. This Feb 23rd 1892.

J. A. Vanderventer
Dep't for W. C. Hawary
S. L. O.

#38 $\frac{30}{100}$. Received from Jas. A. Vandevanter,
deputy sheriff, Thirty-eight dollars
+ thirty cents (\$38.30), a part of
the proceeds of the ^{sale of the} above thresh-
ing Machine. This Feb, 23, 1892.
Pennington & Davis, Atty

J.R. McDowell &c.

73 Comr's Report.

G.B. Burchett & al

Filed Feb. 23/92.

J. A. Syatt

\$44.00

Tennessee.

Dated at Knoxville on July 22nd 1887

On the 22nd day of July, 1887, For value received we on either of us, of Valued & Recd office County of the State of Tennessee promise to pay to Fitch's Company, on order Forty four & no Dollars Payable & negotiable without receipt at Fanninville Bank of Knoxville & with interest at Six per cent per annum from date until paid, and if not paid in full at maturity or if there is any cash redemption of this or any other note of this series, and this note is placed in the hands of an attorney or collecting agent or officer, it is agreed that ten per cent on the amount remaining unpaid shall be allowed & collected as a fee or Commission to such attorney agent or officer. The maker and endorser of this note severally waive proceedings for payment, protest and notice of protest and non payment and all relief from valuation, assignment, assumption, non est and stay laws as to this note. This is one of a series of 10 notes of equal date here with payable to the order of Fitch's Company and it is agreed that this note may be treated as one, and may be sued upon immediately upon default or other breach of any of the covenants of this series.

Witness

John W. Christman

J. D. Brinkley
John W. Christman

Copy of note

of 10/15 original

sent to Geo. to

file in suit

in Tenn

Wm. J. H. H. H.

—

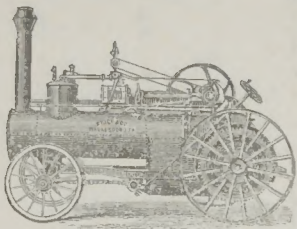
Tennessee\$45.00
25.00Dated at Knoxville on July 22nd 1850

On the 22nd day of July 1850 For value received we jointly
 of Walnut Hill post Office, County of Lee State of Tennessee
 promise to pay to Birk Campbell on order forty five dollars
 payable negotiable, without effort at, Duck's Valley Bank of Knoxville Va
 with interest at six per cent per annum from date until paid, and
 if not paid in full at maturity or if there is any breach whatever
 of this or any other note of this series and this note is placed in the
 hands of our attorney on collecting agent or officer, it is agreed that
 ten per cent, on the amount remaining unpaid shall be added
 and collected as a fee or commission to such attorney
 agent or officer. The makers and endorsers of this note
 severally severally presentment for payment protest and notice
 of protest and non payment, and all holding from collection
 of payment exemption, discount and stay laws to this
 note. This is a series of 4 notes of even date herewith payable
 to the order of Birk Co, and it is agreed that this note may
 be treated as cash and may be sued upon severally
 upon default or other breach of any of the notes of
 this series.

Witness
 John W. Chestnut

E. B. Pennington
 John D. ...

102



This Deed,

Made the 22nd day of July
A. D., 1889, between E. B. Burdett
and John Myers
of Walnut Hill

County of Lee and State of Virginia party of the first part, and
J. B. McDowell of Franklin County of Lincoln
and State of Tennessee party of the second part, TRUSTEE, WITNESSETH, That the said party of the first
part, for and in consideration of one dollar to him in hand paid, and the other considerations hereinafter mentioned,
ha... this day granted, bargained, sold and conveyed, and do... hereby grant, bargain, sell and convey, unto the said party

of the second part, his successors and assigns forever, the following described Real Estate and Personal Property, to-wit: one
One Bay mare about 6 years old, name Brown the property
[Here insert color and age of horse or cow, as the case may be.]

of E. B. Burdett, the same that... he... raised himself also

One Bay mare about 9 years old, name Betty the property
[Here insert color and age of horse or cow, as the case may be.]

of E. B. Burdett, the same that... he... purchased of Bayless Little

also one Bay mare about 4 years old, name Betty the property of

John Myers the same that he purchased of Elias Green also one Bay

mare about 6 years old, name Betty the property of John Myers the same that

he purchased of also one Bay mare about 7 years old, name

Conny the property of John Myers the same that he raised himself

Also, one tract of land, containing 226 acres, lying and being in the 5th Civil District of

Clairborne County, State of Tennessee, belonging to and in the name of E. B. Burdett & Eliza

Burdett adjoining the lands of the Gibson heirs on the North, The American

Association on the South, the Shuler heirs on the East,

on the West, and being the same that... he... purchased or acquired from Thomas

Daniel & Mrs. McVee and Samuel

as the Johnson Farm

ALSO, One tract of land, containing 160 acres, lying

and being in the 6th Civil District of Clairborne

Co. Tenn. belonging to and in the name of

E. B. Burdett adjoining the lands of J. W. Ryce

on the South, Barratt & Peterson on the East

John Langdon on the West and the Green

heirs on the North, being the same that

was sold to him by his father, also one tract

of land, containing 145 acres, lying and being in the 2nd Civil Dist.

The said E. B. Burdett & Eliza owner... of said Real Estate,

do... covenant with said Trustee, his successors and assigns, that... they are... lawfully seized of said Real

Estate, and have a good right to convey it, and that the same is unencumbered, and do... covenant and bind... their

several... heirs and legal representatives, to warrant and defend the title to said Real Estate to said Trustee, his

successors and assigns, against the lawful claims of all persons.

TO HAVE AND TO HOLD the said described property, personalty and realty, all and singular, unto the said Trustee, his

successors and assigns, forever.

But this Deed is made for the following purposes, and no other; that is to say: E. B. Burdett

John Myers justly indebted to Green Machinery Company, of

Knoxville, Tenn. in the sum of one hundred & twenty five

Dollars, with interest, according to the terms of four certain promissory

notes, duly executed by them payable to Green Machinery Company, or order, as follows:

One Note dated July 22nd 1889, due Octo 22nd 1889, for \$ 44.00

One Note dated July 22nd 1889, due Jan 22nd 1890, for \$ 44.00

One Note dated July 22nd 1889, due July 22nd 1890, for \$ 44.00

One Note dated July 22nd 1889, due Jan 22nd 1891, for \$ 45.00

One Note dated July 22nd 1889, due Jan 22nd 1891, for \$ 45.00

One Note dated July 22nd 1889, due Jan 22nd 1891, for \$ 45.00

One Note dated July 22nd 1889, due Jan 22nd 1891, for \$ 45.00

or, if said GREER MACHINERY COMPANY, or assigns, shall, for any other reason, deem themselves insecure, then, in any of said events, this conveyance remains in full force and effect, and the whole sum hereby secured shall immediately become due and demandable, and said Trustee, or his successor in trust, is hereby authorized and empowered, upon the written request of GREER MACHINERY COMPANY, or assigns, or without such request, if he sees fit, to take the personal property herein described into immediate possession, and remove the same to such place as he thinks proper, and sell the same for cash, or on credit with approved security, as to the Trustee may seem best for said GREER MACHINERY COMPANY, to the highest bidder, after giving ten days' written or printed notice, to be posted at one or more public places in the vicinity where the property is to be sold, and one at the court house door, in said Belair County.

And upon making total or partial default in the payment of the above notes, according to their tenor and conditions, the said Trustee, or his successor in trust, after sale of the personal property herein conveyed, or before resorting to the same, as he may elect, may, and he is hereby authorized and empowered, upon giving thirty days' notice by advertisement in some

newspaper published at Jonesville or Lawrence or by printed or written posters, posted in five public places in the county where sale is made, one to be posted at the court house door, to sell said real estate at Jonesville

to the highest bidder for cash, and said Trustee, or his successor in trust, shall make a deed to the same to the purchaser, and shall take immediate possession of said real estate and deliver the same to the purchaser or purchasers; and said Trustee is hereby authorized to take any legal steps that he may deem necessary to acquire such immediate possession of said premises. The said G. B. Burdett wife E. Burdett

do hereby expressly waive the equity of redemption, right of homestead, and the requirements of the statutes as to Trustee's bond and oath. And in case of death, absence, inability or refusal to act, of said Trustee, at any time when his action under the foregoing trusts may be required, then GREER MACHINERY COMPANY, or assigns, are hereby authorized and empowered to name and appoint a Trustee to execute the trust, and the title herein conveyed to the Trustee herein named shall be vested in such appointee, who is hereby empowered to perform all the duties under this trust which the said Trustee herein named is empowered to perform.

The proceeds of any of the property, personal or real, sold as herein provided, shall be applied:

First. To pay the costs, charges and expenses of executing this trust, including commissions to Trustee, and also Attorney's fees and all costs and expenses incurred in enforcing or protecting this trust.

Second. To pay said notes, or renewals or extensions, or any balance thereof remaining unpaid; it being understood and hereby agreed to, that, the proceeds may be applied on said notes in the inverse order of their maturity, or as GREER MACHINERY COMPANY or assigns may direct, and the fact of any note not being then due shall not prevent the proceeds of such sale from being thus applied to it in preference to such as may then be due.

Third. The residue, if any, is to be paid over to the party of the first part.

IN WITNESS whereof the parties of the first part have hereunto set hands and seals.

WITNESSES:

J. M. Cheatham
O. Schumly

G. B. Burdett [SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

[SEAL.]

STATE OF Tennessee } ss.

COUNTY OF Cherokee }

Personally appeared before me J. M. Cheatham in and for said County, the within named G. B. Burdett

O. Schumly and E. Burdett subscribing witnesses to the within deed with whom I am personally acquainted, and who acknowledged that they executed the within instrument for the purposes therein contained. And E. Burdett wife of the said G. B. Burdett

having appeared before me privately and apart from her husband, the said G. B. Burdett, and acknowledged the execution of the said Deed to have been done by her freely, voluntarily and understandingly, without compulsion or constraint from her said husband, and for the purposes therein expressed.

Witness my hand and official seal, at office in Jonesville on this the 23rd day of July A. D. Eighteen Hundred and Eighty

STATE OF Tennessee } ss.

COUNTY OF Cherokee }

In the 11th day of January 1890, John R. Gibson Register for said County, do certify that the foregoing deed of trust and certificate were received.

189, at 5 o'clock, and entered on page 189 of Note Book, No. 189, and registered to day in book 189, page 189, of my office.

John R. Gibson Clerk.

John R. Gibson

John R. Gibson

John R. Gibson

John R. Gibson

John R. Gibson

John R. Gibson

John R. Gibson

John R. Gibson

John R. Gibson

John R. Gibson

John R. Gibson

John R. Gibson

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon

A. B. Rurchett
and John Ayers

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the ^{*third*} Monday
in *February* next, being rule day to answer a bill in Chancery exhibited in our said Court
against *them* by

J. R. McDowell Trustee

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.

This *29th* day of *January* 18 *91*, in the 11th year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste

